

10/802,165

- 12 -

ELYN/10

Remarks

In response to the Examiner's Office Action, Applicant has amended claims 11 and 30 to overcome the Examiner's formal objections, and submits that the claims are allowable over the cited prior art for the reasons explained herein.

Technical Summary

The present invention relates to a method, apparatus and program product that provides a mechanism for communicating an encrypted package over a secure network connection. For example, the package may be communicated via a https secure socket layer network connection. The package is generated using a non-browser application, and uses an email analogous interface, meaning that file data is communicated using an email address associated with an addressee. However, unlike email, the package is communicated over a secure network connection. That is, unlike the plain text email protocol used for email, packages delivered in accordance with principles of the present invention travel over a "secure network connection". In the scope of some claims, the package may be encrypted at the local computer of a sender prior to being communicated over the secure network connection to a secure server, however, in each of independent claims 1, 16, 19, 20, 21, 33, 34, 35, and 36, it is stated that the package is delivered over a "secure network connection".

Prior Art Rejections

The Examiner's prior art rejection relies upon the Michael publication 2002-0188689, which the Examiner asserts is anticipatory of all limitations of independent claim 16 and also anticipatory of most recitations of claims 1, 19, 20-21 and 33-36, with a few exceptions:

10/802,165

- 13 -

ELYN/10

The Examiner indicated that the language reciting "the package is stored at the server", and language reciting program code "configured to communicate a confirmation delivery status of the package from the secure server," cannot be found in Michael, and as a consequence the Examiner cites the Benninghoff publication 2002-0091782 for showing the storage of a package at a server, and delivery confirmation.

As to the inclusion of PCL within the package, the Examiner indicates that this is not found in Michael but can be found in Maxwell US 5,805,810.

As to language reciting the compression of at least a portion of a package, the Examiner cites Montville US 6,356,937 for showing compression techniques.

As to language reciting the use of an https socket layer connection, the Examiner recites Dye et al. 205-0114658 for showing a remote web site security system.

With respect to these citations, Applicant submits there is nothing, individually or collectively, in the cited references that shows or suggests the invention being claimed herein.

Specifically, as noted above, the present invention is directed to a system for delivering packages with an email analogous interface that uses a "secure network connection" for delivery of the package. A "secure network connection" is recited in each and every independent claim.

The Examiner has taken the position that Michael recites the claimed "secure network connection" for package deliveries, but this is clearly incorrect. Rather, Michael is directed to a system or method in which electronic messages are made identifiable or tagged for non-spam treatment, by the inclusion of a tag or marker such as a "banner" that has certain characteristics. The disclosure of Michael is generally directed to the attributes of this "banner", ways to ensure

10/802,165

- 14 -

ELYN/10

it cannot be mimicked, and the like. Michael is not proposing the use of a secure network connection to communicate emails containing banners – rather, his disclosure explicitly states that messages according to his invention are “transported over the typical email protocols and displayed at the destination client”. See page 9, paragraph 107 in Michael. See also, page 10, paragraph 120: the invention “can be seen as a self-contained, but public, email system --- that uses the current art email systems, transport protocols and distribution -- but is a private and proprietary system, thus it has the right to control the users of its system” (emphasis added). As is well known (even notorious), the “typical email protocols”, namely the “current art email systems, transport protocols and distribution” that Michael proposes to use for his emails, are plain text protocols and are anything but secure. Certainly, they are not a “secure network connection” as the present claims specifically recite.

It should be noted that the Michael email system is intended to be useable as an email client, indeed, it receives normal email, i.e., email that has not been tagged or bannerized. Both normal and bannerized email are routed in the normal fashion, and received in the normal manner of email, by the Michael email system. Accordingly, Michael must use the “typical email protocols” as without this, neither his bannerized nor his normal email could be received.

Accordingly, it is apparent that Michael is neither anticipatory nor suggestive of the present claims, each of which recites the use of a “secure network connection” in connection with the communication of a package via an email analogous interface. Michael discloses nothing of the sort, and actually teaches the opposite.

10/802,165

- 15 -

ELYN/10

Applicant notes that the Examiner has cited the Dye patent for showing the use of an https socket layer for data communication, and asserted it would be obvious to use such a connection in the Michael email system. Applicant disagrees. Specifically, the Michael system, as noted, is intended to collect email received in the normal fashion, including standard and bannerized email using the Michael invention. Specifically, Michael states at page 10, paragraph 120 that his client "can be provided to be an add-on to or to replace the main local email client", and that it receives mail "us[ing] the current art email systems, transport protocols and distribution". These current systems and protocols are plain text systems, and are not compatible with https protocol delivery. Using https protocol delivery would render the Michael client unusable as "an add-on to or [replacement of] the main local email client", because it would not be able to receive email using normal protocols. Accordingly, the substitution the Examiner suggests could not be obvious, as it is in direct contradiction to the purposes and design of the Michael system.

### 35 USC 101 Rejection

The Examiner has entered a rejection of claims 36 and 37 under Section 101; on the grounds that these claims are assertedly claiming nonstatutory subject matter. The Examiner states that the claims are "drawn to a signal-bearing medium" and the Examiner states that this has been defined in the specification to include "an electronic transmission signal" citing page 12, lines 3-11. However, the text cited, and claims 36 and 37 themselves, are not merely reciting or referring to "a transmission signal", but rather are referencing a "signal-bearing medium" that carries program code, which may be storage or it may be a "transmission medium". A

10/802.165

- 16 -

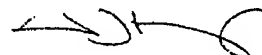
ELYN/10

"transmission medium" would include, e.g., network connections. The claim thus is directed to something very physical -- a signal bearing medium -- and not merely to "energy" as the Examiner seems to posit. Applicant submits that this rejection is incorrect and should be removed.

In view of the foregoing, Applicant submits that all claims are allowable over the cited prior art, and requests an early transmission of a Notice of Allowability.

A petition for extension of time is included on the transmittal of this response. If, however, any petition for extension of time is necessary to accompany this communication, please consider this paper a petition for such an extension of time, and apply the appropriate extension of time fee to Deposit Account 23-3000. If any other charges or credits are necessary to complete this communication, please apply them to Deposit Account 23-3000.

Respectfully submitted,



Thomas W. Humphrey  
Reg. No. 34,353

Wood, Herron & Evans, L.L.P.  
2700 Carew Tower  
441 Vine Street  
Cincinnati, OH 45202-2917

Voice: (513) 241-2324  
Facsimile: (513) 241-6234